

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

ROBERT STAMEY,

Appellant,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

) Case No. RULE-00-0009

)

) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

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I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair; GERALD L. MORGEN, Vice Chair; and LEANA D. LAMB, Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on July 21, 2000.

1.2 **Appearances.** Appellant Robert Stamey appeared *pro se*. Respondent Department of Corrections was represented by Art Haro, Human Resource Manager.

1.3 **Nature of Appeal.** This is an appeal of an alleged violation of WAC 356-15-060(ii)(c). Appellant asserts that Respondent violated this provision by failing to pay him shift differential pay for overtime hours he worked.

1.4 **Citations Discussed.** WAC 358-30-170; WAC 356-15-060.

II. MOTION

2.1 At the outset of the hearing, Respondent made a motion to dismiss the appeal. Respondent agreed that the allegations made in Appellant's appeal were factual, however, Respondent asserted that the department had subsequently paid Appellant the differential shift pay. Respondent argued that because there was no longer a remedy the Board could grant, the matter was moot.

2.2 Appellant agreed that he had received the shift differential back pay to which he was entitled. However, Appellant opposed Respondent's motion and argued Respondent had not demonstrated a process to ensure that shift differential pay was paid in a predictable and timely manner.

2.3 The Board orally granted Respondent's motion. The Board now confirms its oral ruling.

III. FINDINGS OF FACT

3.1 Appellant Robert Stamey is a Correctional Officer and permanent employee for Respondent Department of Corrections at Cedar Creek Corrections Center. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on April 10, 2000.

3.2 Both parties agree that the facts of this case are not in dispute. On March 30, 2000, Appellant was informed by Respondent that there had been a problem with payroll and that he may not have received shift differential pay for overtime hours he worked after January 1, 2000. Appellant audited his payroll statements and verified that he had not received shift differential pay for overtime hours he had worked.

1 3.3 By paycheck dated May 10, 2000, Respondent paid Appellant for shift differential not
2 previously paid to Appellant.

3
4 3.4 By appeal dated April 10, 2000, Appellant alleged that Respondent violated WAC 356-15-
5 060(ii)(c) by failing to pay him shift differential pay. Appellant also requested that the department
6 take any steps necessary to preclude future errors of this type.

7 8 **IV. CONCLUSIONS OF LAW**

9 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
10 herein.

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12 4.2 In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-
13 170).

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15 4.3 The Board may decide all, or any part, of an appeal by motion if the documents on file,
16 depositions and affidavits, if any, show there is no genuine issue as to any material fact and the
17 appeal should be decided or dismissed as a matter of law. (WAC 356-30-060).

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19 4.4 Respondent clearly failed to pay Appellant shift differential pay for overtime worked.
20 However, Respondent provided the remedy Appellant requested. Therefore, there is no remedy
21 which we can provide to Appellant, and the appeal should be dismissed.

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2 4.5 Having reviewed the files and records in this matter and being fully advised in the premises,
3 the Board enters the following:
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6 **V. ORDER**

7 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Robert Stamey is dismissed.
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9 DATED this _____ day of _____, 2000.
10

11 WASHINGTON STATE PERSONNEL APPEALS BOARD
12

13 _____
14 Walter T. Hubbard, Chair
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16 _____
17 Gerald L. Morgen, Vice Chair
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19 _____
20 Leana D. Lamb, Member
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